

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ANTHONY MICHAEL GIOIOSA,

Plaintiff

v.

MOTION TO SUCCESSOR,

Defendant.

Case No. 3:23-CV-00057-ART-CLB

**ORDER TO PAY FILING FEE
OR FILE APPLICATION TO
PROCEED *IN FORMA PAUPERIS***

I. DISCUSSION

On February 7, 2023, Plaintiff Anthony Michael Gioiosa (“Gioiosa”), an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Gioiosa has neither paid the full \$402 filing fee for this matter nor filed an application to proceed *in forma pauperis*.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

The Court will grant Gioiosa a **one-time** opportunity to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$402 filing fee for this action on or before **Monday, March**

1 **27, 2023.** Absent unusual circumstances, the Court will not grant any further extensions
2 of time.

3 If Gioiosa is unable to file a fully complete application to proceed *in forma pauperis*
4 with all three required documents or pay the full \$402 filing fee on or before **Monday,**
5 **March 27, 2023,** this case will be subject to dismissal without prejudice for Gioiosa to file
6 a new case with the Court when Gioiosa is either able to acquire all three of the
7 documents needed to file a fully complete application to proceed *in forma pauperis* or
8 pays the full \$402 filing fee.

9 A dismissal without prejudice means Gioiosa does not give up the right to refile the
10 case with the Court, under a new case number, when Gioiosa has all three documents
11 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Gioiosa
12 may choose not to file an application to proceed *in forma pauperis* and instead pay the
13 full filing fee of \$402 on or before **Monday, March 27, 2023** to proceed with this case.

14 The Court will retain Gioiosa's civil rights complaint (ECF No. 1-1), but the Court
15 will not file the complaint unless and until Gioiosa timely files a fully complete application
16 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

17 **II. CONCLUSION**

18 For the foregoing reasons, **IT IS ORDERED** that the Clerk of the Court will **SEND**
19 Gioiosa the approved form application to proceed *in forma pauperis* by an inmate, as well
20 as the document entitled information and instructions for filing an *in forma pauperis*
21 application.

22 **IT IS FURTHER ORDERED** that on or before **Monday, March 27, 2023,** Gioiosa
23 will either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee
24 and the \$52 administrative fee) or file with the Court:

25 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
26 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
27 signatures on page 3),

28 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail

1 official (i.e. page 4 of this Court's approved form), and

2 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
3 **previous six-month period.**

4 **IT IS FURTHER ORDERED** that, if Gioiosa does not file a fully complete
5 application to proceed *in forma pauperis* with all three documents or pay the full \$402
6 filing fee for a civil action on or before **Monday, March 27, 2023**, this case will be subject
7 to dismissal without prejudice for Gioiosa to refile the case with the Court, under a new
8 case number, when Gioiosa has all three documents needed to file a complete application
9 to proceed *in forma pauperis* or pays the full \$402 filing fee.

10 **IT IS FURTHER ORDERED** that the Clerk of the Court will retain the complaint
11 (ECF No. 1-1) but will not file it at this time.

12 **IT IS SO ORDERED.**

13 **DATED:** February 8, 2023

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15 **UNITED STATES MAGISTRATE JUDGE**
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